

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

County Real Property Asset Management

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Purpose

The purpose of this policy is to establish guiding principles for the management of County-owned real property. The policy sets forth the process to determine if County-owned real property is surplus to County needs and whether such property should be sold or leased. The policy also establishes the procedures to be used in the process of selling or leasing County-owned real property.

Background

Increasing demand for County services, combined with increasing demand for discretionary revenue, requires intensified utilization of County properties and a more aggressive approach in managing these assets.

It has been the County's policy to return to other public agencies or to the private sector that surplus real property which is no longer needed by the County for public facilities and programs. Whole properties are occasionally acquired when only portions are to be utilized for proposed public roads or other projects. The County attempts to sell or lease the unneeded portions of the acquired properties and other surplus properties for the highest net return to the County. However, property which is substandard or zoned for a use which is incompatible with the surrounding neighborhood will not be sold or leased until appropriate zoning entitlements are in place.

Periodically, the County has properties which must be retained for long-term public use that may be available for interim private use (e.g., future rights-of-way). In other instances, the combination of public ownership/investment and private operation may be best for the public's interest. For example, a concessionaire in a regional park or a fixed-base operator at a County airport may be less expensive and more responsive in serving the community's needs at public facilities.

For purposes of Policy F-51 only, the terms "surplus," "surplus property," "surplus real property" collectively shall mean any County owned real property that (i) is identified and deemed to be in excess of the County needs; and (ii) is not required for any foreseeable County use.

Policy

It is the policy of the Board of Supervisors that:

1. Surplus Property Determination and Reports to Board of Supervisors
 - a. On an annual basis, the Director of General Services shall solicit input from County Departments to identify potential surplus property.
 - b. As circumstances warrant, the Director of General Services shall determine what property is surplus to County needs. This determination shall be based on current County Master Plans and individual department's strategic plans relative to the County's financial ability to develop and effectively utilize the particular properties within a reasonable time frame. Prior to final determination of which

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properties are surplus to County needs, the Director of General Services shall review the County's occupancy of leased space and lease termination dates to determine if property identified as surplus may be suitable for the relocation of County tenants from leased to owned space. Further, prior to final determination that any unimproved property is surplus to County needs, the Director of General Services, in conjunction with appropriate departments, shall consider the habitat value of the property (e.g., possible inclusion as preserve land contributing to regional conservation planning efforts or as a mitigation bank).

- c. The Director of General Services shall maintain a list, updated no less than annually, that identifies real property that is considered surplus to County needs. In addition, the Director shall:
 1. Periodically circulate this list to County department heads as updates are made.
 2. Incorporate, as appropriate, plans to lease, sell, or redevelop surplus real property into the Capital Improvement Plan filed annually with the Board.
 3. As circumstances warrant, request a finding of the Board, through reports filed by the Chief Administrative Officer, that individual parcels of real property are surplus to County needs, and include a recommendation as to whether the surplus property should be leased or sold.

2. Lease of Surplus County Real Property

- a. It is the County's intent to properly utilize surplus properties through development of lease revenues for public benefit, or to sell such properties to the private sector, or another public agency, when no current or prospective County use is envisioned.
- b. Whenever joint or multiple uses of public and private interests are compatible, the production of lease revenue will be considered as an ancillary or supplemental use of property.
- c. Leases of County property shall be offered without favor or discrimination to all individuals or groups capable of performing the services desired under the lease. A public solicitation process that considers the available market and interest shall be undertaken. The Director, Department of General Services shall implement this process, which must include advertising commensurate with the most effective method of reaching prospective lessees and as prescribed by law.
- d. The County may pay a real estate brokerage commission for the lease of surplus County real property when it is deemed advisable that the assistance of a real estate broker may cause a property to lease at a higher price, lease sooner, or when the property's unique characteristics precludes handling the lease by staff alone. The Board must include its intention to pay a commission in the resolution and otherwise conform to the provisions of Government Code Section 25527.
- e. When all proposers are responsible and equally qualified to meet the use and/or development objectives of the lease under consideration, the highest net return to the County shall be the basis of selection. In other circumstances, and where it is not required by law that the property be leased to

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the highest bidder, the Board may approve a request for proposals process that utilizes a variety of selection criteria appropriate to the intended use of the property.

- f. Leases containing holdover or indefinite term provisions shall include an inflation provision to provide increased rent during the extended period.
- g. Notwithstanding provisions a through f, above, the State of California, Health and Welfare Agency, Department of Rehabilitation, shall be given the first opportunity to submit a proposal through their Business Enterprise Program for a concession to be operated by a legally blind person, when the proposal is for the provision of vending facility as defined in Section 19626 of the Welfare and Institutions Code. If such a proposal is submitted by the State, it will be considered on its merits before other proposals are solicited by the County.
- h. Certain properties, such as airports and parks, may warrant performance leases requiring special management or investment of private capital in public facilities due to unique or restricted use conditions. Establishment of special lease policies, such as the Gillespie Field Development Council's Implementation Practice for San Diego County Airport Development, as approved in principle periodically by the Board of Supervisors, shall become a part hereof by reference and shall be the controlling guidelines for leasing such properties insofar as there is any conflict with other Board of Supervisors Policies.
- i. The Airport Section of the Department of Public Works shall be the principal contact with airport lessees and is responsible for the functions and activities of lessees related to the operation of County airports. The Airport Section shall assist the Department of General Services in identifying, screening, selecting, and negotiating leases with proposed tenants and lessees on airport properties.
- j. The Department of General Services shall be the principal contact with lessees on property managed by the Department of Parks and Recreation. The Department of Parks and Recreation shall assist the Department of General Services in identifying, screening, selecting, and negotiating leases with proposed lessees on property managed by the Department of Parks and Recreation.
- k. Revenue from the lease of General Fund properties will be budgeted in the Department of General Services Facilities Management Internal Service Fund (Real Estate Services Division). Revenues from leasing of property that is managed by Parks, Airports, Roads, Special Districts Enterprise Fund, or other special funds will be budgeted in their respective programs.
- l. A rental valuation review shall be completed for County-owned or leased land and improvements available for lease. Such reviews shall be done at the time property becomes available for lease and at appropriate time periods consistent with best real estate management practices.
- m. Lease terms shall generally be limited to a reasonable time commensurate with the amount of capital investment or reinvestment being made by the lessee in improvements to the premises or property. Capital investment is defined as construction of new improvements, alterations, or additions that (i) exceed \$100,000, or exceed 10% of the value of any existing leasehold improvements; (ii) are not

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recurring; and (iii) are expected to increase the value (efficiency, productivity, utility) of the property. For improved property, where no capital investment is required of or proposed by a prospective lessee, fixed lease terms will be granted for periods in keeping with industry standards for the type of improvements and the intended use of the property.

- n. Leases with a term exceeding 10 years in length shall provide for renegotiation of rent to market level at appropriate intervals in keeping with industry standards. Interim cost-of-living adjustments shall also be provided in between market-level adjustments at appropriate intervals in keeping with industry standards. In no event, shall the minimum rent for the adjustment period be less than the minimum rent payable immediately prior to the adjustment period.
- o. All County leases shall be written on a form approved by County Counsel, and shall, at a minimum, conform to local/regional standards of tenant responsibility and liability. County leases may contain more restrictive clauses than private sector leases to better protect the public interest (such as, strict provisions for complying with all laws, particularly environmental laws such as hazardous materials management and stormwater pollution prevention regulations).
- p. A lease extension may be granted to a tenant who has fully complied with all terms and conditions of the lease if granting an extension would be in the best interests of the County and if the County department controlling the property concurs. Factors to be considered in determining the terms of a lease extension shall include the following:
 - 1. New capital investment as described in “m” above, if appropriate;
 - 2. Whether the public interest would be better served by allowing the lease to expire so that potential new tenants may participate in a new competitive solicitation process;and
 - 3. An increase in rent, or lump sum payment to the County, based on the higher of:
 - i. The present value of the County’s reversionary interest in the leasehold improvements when the lease extension is granted; or
 - ii. An amount equal to 50% of the increased value of the leasehold estate due to the lease extension, as determined by standard appraisal practice.

3. General Prerequisites for Sale of Surplus Property

- a. No property will be sold until an estimate of its fair market value has been made. The Director, Department of General Services may hire independent appraisers for this purpose.
- b. County-owned surplus properties available for sale shall be zoned to their highest and best use whenever practicable and whenever such zoning will materially increase chances of selling the property for a higher price. No surplus property shall be zoned in a manner incompatible with

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present and anticipated future uses of adjacent properties in the same neighborhood. Current zoning of surplus properties may be changed to a more restrictive use.

- c. If subdivision of the property will likely increase the net sales price to the County, the County may subdivide its surplus property prior to sale
- d. Prior to selling a property, a report shall be obtained from the jurisdictional planning agency that the proposed disposal is not in conflict with the general plan for the area in which the property is located.
- e. Appropriate governmental entities shall be notified of the surplus property's availability, prior to offering it for sale to the general public.
- f. No property shall be sold without an appropriate review pursuant to California Environmental Quality Act.
- g. Substandard or unbuildable property is offered for sale upon a demonstrated interest of a party who can put the property to productive use. A potentially non-refundable cash deposit may be required where the County will undergo substantial overhead in making the property available for sale.

4. Property Conveyed to Another Public Agency

Whenever the County conveys property or any interest therein to another public agency for its use and benefit, the County shall charge a reasonable amount for the property or interest being conveyed. In determining the amount to be charged, the County shall give consideration to the following factors:

- a. The market value of the property or interest therein, if ascertainable; and
- b. The benefit or cost to the County as a result of:
 - (1) The use to be made of the property or interest therein by the public agency;
 - (2) The elimination or reduction of any County liability and/or obligation to maintain or operate the property;
 - (3) The effect on the County's remaining property, if applicable; and
 - (4) The potential loss of property tax revenue to County.

5. Solicitations of Offers to Purchase

- a. The Director, Department of General Services is authorized to enter into agreements permitting soil tests, engineering studies, hazardous materials investigations, or environmental surveys when a request has been made by a potential buyer of County surplus property. Such authorization will enable the Director, Department of General Services to more expeditiously solicit Offers to Purchase.

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b. The County may pay a real estate brokerage commission for the sale of County surplus real property when it is deemed advisable that the assistance of a real estate broker may cause a property to sell at a higher price or when the property's unique characteristics precludes handling of the sale by staff. The Board must include its intention to pay a commission in the resolution and otherwise conform to the provisions of Government Code Section 25527.

c. In addition to advertising mandated by law, surplus property to be sold shall be advertised for sale in the manner most likely to reach the largest number of potential buyers. Appropriate "For Sale" signs shall be posted on properties. The advertising period shall be of sufficient duration to attract buyers for properties to be sold. Special marketing programs utilizing a Request for Proposal process shall be prepared and implemented for unique properties where the normal bid process may not be appropriate.

6. Sale of Surplus Property by Board of Supervisors or Director, Department of General Services

a. Sales may either be conducted by the Board of Supervisors or the Director, Department of General Services.

b. Sales of properties having an estimated value of more than \$25,000 shall be conducted by the Board of Supervisors through a sealed bid opening followed by an auction or the Request for Proposal process, at a time and place publicly announced and noticed by legal advertising.

c. Sales of properties having an estimated value of \$25,000 or less and capable of being developed may be conducted by a representative of the Director, Department of General Services at a time and place publicly announced and noticed by legal advertising pursuant to Government Code section 25526.5.

Sunset Date

This policy will be reviewed for continuance by 12-31-2014.

Board Action

12-09-1997 (19)

06-21-2005 (16)

04-07-2009 (7)

CAO Reference

1. Department of General Services
2. Department of Public Works
3. Department of Parks & Recreation